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C O N F I D E N T I A L ASUNCION 000176

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E.O. 12958: DECL: 01/02/2027
TAGS: [KTIA](#) [MARR](#) [MASS](#) [MOPS](#) [PGOV](#) [PREL](#) [PA](#)
SUBJECT: PARAGUAY: GUIDANCE REQUEST ON RECASTING SOFA
WITHIN FRAMEWORK OF 1961 AGREEMENT

REF: A. EILAND/READ EMAIL (3/7/07)

[1](#)B. STATE 12028
[1](#)C. ASUNCION 0037

Classified By: PolCouns James P. Merz. Reason 1.4(b),(d).

[1](#)1. (U) Action request: See paras. 2 and 6.

[1](#)2. (C) SUMMARY. Both MFA lawyer Tito Velasquez and Vice-Presidential advisor Juan Facetti praised the new draft SOFA text (reftel B) as a significant improvement over prior texts in terms of addressing GOP concerns. Velasquez still does not believe the MFA could "sell" the new text to Congress as comparable to the Argentine and Brazilian agreements as the U.S. draft expounds on a wider range of privileges. Lacking our readiness to make another run at trimming back our draft, he suggested we look at recasting our SOFA within the framework of a 1961 agreement between Paraguay and the U.S. that he recently uncovered which would allow us to bypass seeking Paraguayan Congressional approval. Post requests guidance. END SUMMARY.

[1](#)3. (C) MFA lawyer Tito Velasquez welcomed the new draft SOFA text as a more amenable text in meeting with PolCouns on March 5. However, he did not think it politically advisable to submit our text alongside the Argentine and Brazilian agreements as ours spoke to a considerably longer list of privileges. He would only recommend that course if we could essentially duplicate the Argentine and Brazilian agreements. Otherwise, opponents would immediately seize on differences in the texts.

Looking to 1961 Agreement as a Framework

[1](#)4. (C) Velasquez presented PolCouns with a text of a 1961 agreement (only in Spanish see ref A) between the U.S. and Paraguay relating to economic and technical assistance extended to Paraguay in the context of the Kennedy administration's "Alliance for Progress." He drew attention to Article III which speaks to the extension of privileges and immunities, consistent with those accorded to the diplomatic mission, to those individuals who come to Paraguay on a "special mission" to carry out responsibilities in conformity with this agreement. Velasquez maintained this agreement was still valid and, on its face, could provide legal grounds to claim the extension of privileges and immunities to U.S. military technicians and doctors who come to Paraguay in the context of our military cooperation activities. He wanted to consider further whether it would also extend to armed troops after exploring what kind of agreements Paraguay has with Argentina and Brazil. However, he believed that the 1961 agreement could serve as the framework for our introducing our new SOFA text via an

exchange of dipnotes and in that way acquire all of the privileges and immunities articulated in that text for the military personnel we send to Paraguay.

15. (C) According to Velasquez, if we were to pursue this approach, the MFA would not need to send our draft SOFA text to Congress for approval as it would be working off an already legal and valid agreement that speaks to technical assistance. If we were to pursue this course, Velasquez said we would need to introduce some perambulatory language in our SOFA text recalling the 1961 agreement. He also recommended we change the title of our agreement to read "Agreement on Technical Military Assistance Between the Government of the United States of America and the Government of Paraguay" and to use similar terminology throughout our text as part of an effort to offer our SOFA text as consistent with the terms of the 1961 agreement.

16. (C) COMMENT AND GUIDANCE REQUEST: The MFA's proposal on the 1961 agreement is nothing if not creative. It may even be legal. As to whether it passes political muster is another question. President Duarte remains almost singularly focused on winning the Congressional votes he needs to pursue reelection and practically every issue that comes before him is considered through that prism. Meanwhile the opposition within Congress rarely passes on an opportunity to attack the President for any perceived misstep. This course could provide an avenue to avoid confrontation or just another pretext to foment controversy. Both Velasquez and Facetti have signaled their predisposition to recommend this course to their respective bosses -- FM Ramirez and the VP Castiglioni. We are prepared to quietly sound out the President and perhaps even select Congressional leaders. First, however, we request the Department's legal take on this approach. END COMMENT AND GUIDANCE REQUEST.
CASON